



# **CITY OF HAYWARD**

## **AGENDA REPORT**

AGENDA DATE 02/08/00

AGENDA ITEM 6

WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Status of Compliance with the Conditions of Approval of Use Permit No. 78-83 and Use Permit No. 91-75, Arthur D. & Beverly Bridges Trust and Vargas Enterprises, Inc. (Owners) - The Site is Located at 25751-25789 Dollar Street Approximately 550 Feet North of Harder Road, in a General Commercial (CG) Mission Corridor Special Design Overlay District (SD-2)

### **RECOMMENDATION:**

It is recommended that the City Council accept this status report on current compliance with the conditions of approval.

### **BACKGROUND:**

On July 27, 1999, the City Council considered an appeal of the Planning Commission decision to revoke two use permits that allow the operation of an automobile repair and sales complex. The Council reversed the decision to revoke and reinstated the use permits. Council requested that the following 4 requirements be met in addition to the adopted conditions of approval:

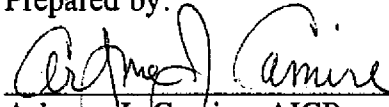
- 1) The owner shall designate an on-site manager to assure enforcement of all of the conditions of approval of the use permits and retain an independent manager to visit the site on a daily basis to assure compliance;
- 2) The owner shall develop a parking plan for the site that will assure that there are adequate visitor parking spaces for each business;
- 3) Staff shall monitor the performance of the owner to assure that the conditions of the use permit are complied with and report to the City Council on the owner's progress in six months; and
- 4) Applicant shall be required to reimburse the City for the costs incurred for monitoring and reporting back to the Council.

The owner has designated an on-site manager and the site is inspected daily. The parking lot has been painted indicating fire lanes and assigned tenant-parking spaces. Upon inspection on several occasions within the last 6-month period, staff observed that the conditions of approval are being met. All landscaping and irrigation has been installed and maintained. Fire lane and tow-away signs have been posted. The fire lanes are not obstructed longer than what is necessary to enter repair garages. In addition, illegally parked and inoperable vehicles are no longer stored on-site. The applicant has been responsible for the reimbursement of all staff time and materials required for monitoring the project and reporting back to the Council.


The overall appearance of the property has improved since the property owner has taken a proactive role in property management. Conditions of operation are enforced by the management company and if a violation should occur, a citation will be issued. If a tenant incurs several violations, the management company will ask that business owner to cease operations.

The property owner and tenants have demonstrated that they are willing and capable of achieving compliance with the conditions of approval. Should the owner and tenant fail to comply with the conditions at anytime, the Planning Director will refer this item to City Council for review with the possibility of revocation of the use permits.

Prepared by:

  
Arlyne J. Camire, AICP  
Associate Planner

Recommended by:

  
Sylvia Ehrenthal, Director of Community  
and Economic Development

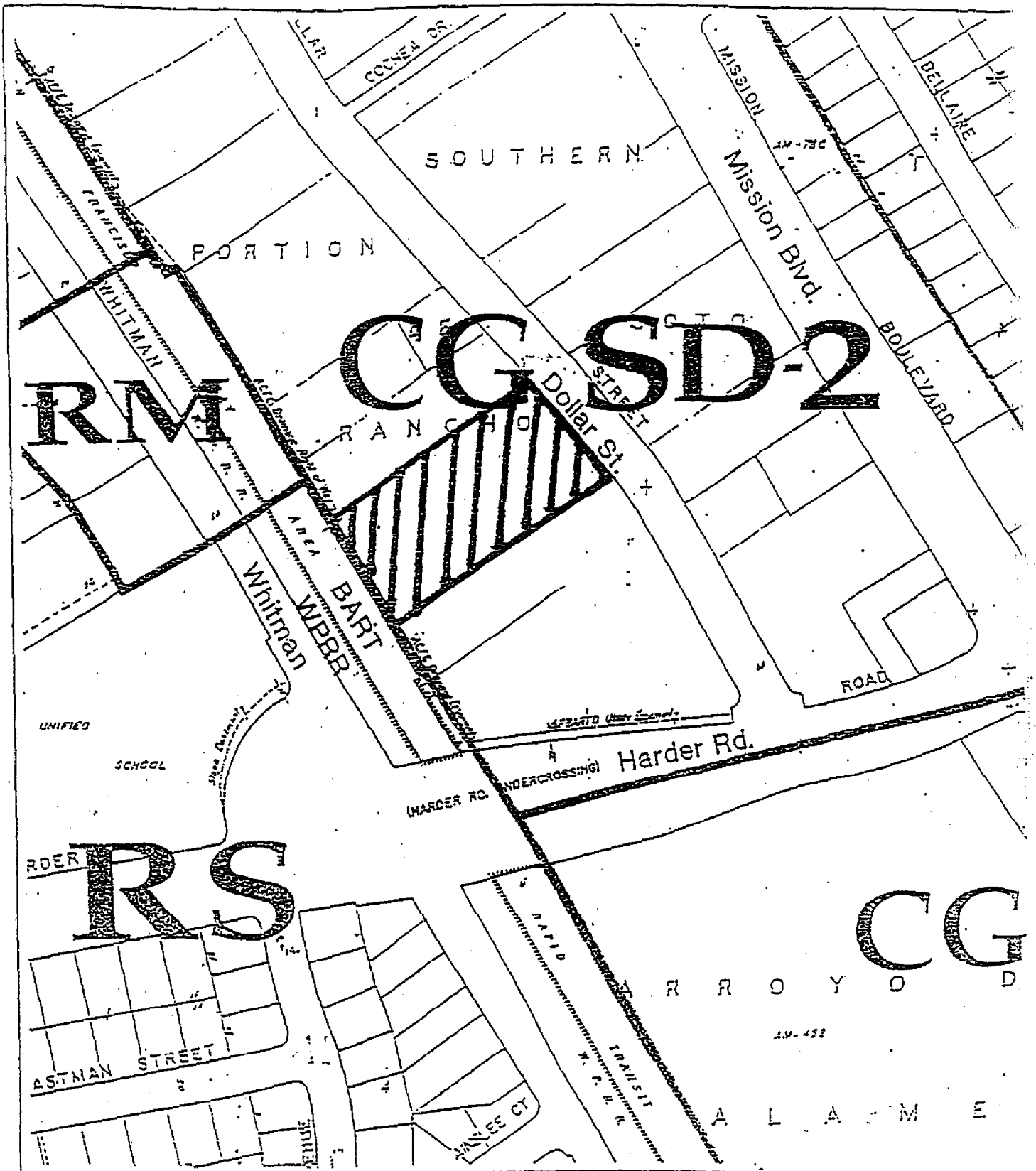
Approved by:

  
Jesus Armas, City Manager

Attachments:

- Exhibit A - Area Map
- Exhibit B - Site Plan
- Exhibit C - City Council Report dated July 27, 1999
- Exhibit D - City Council Report dated July 20, 1999

02.01.00

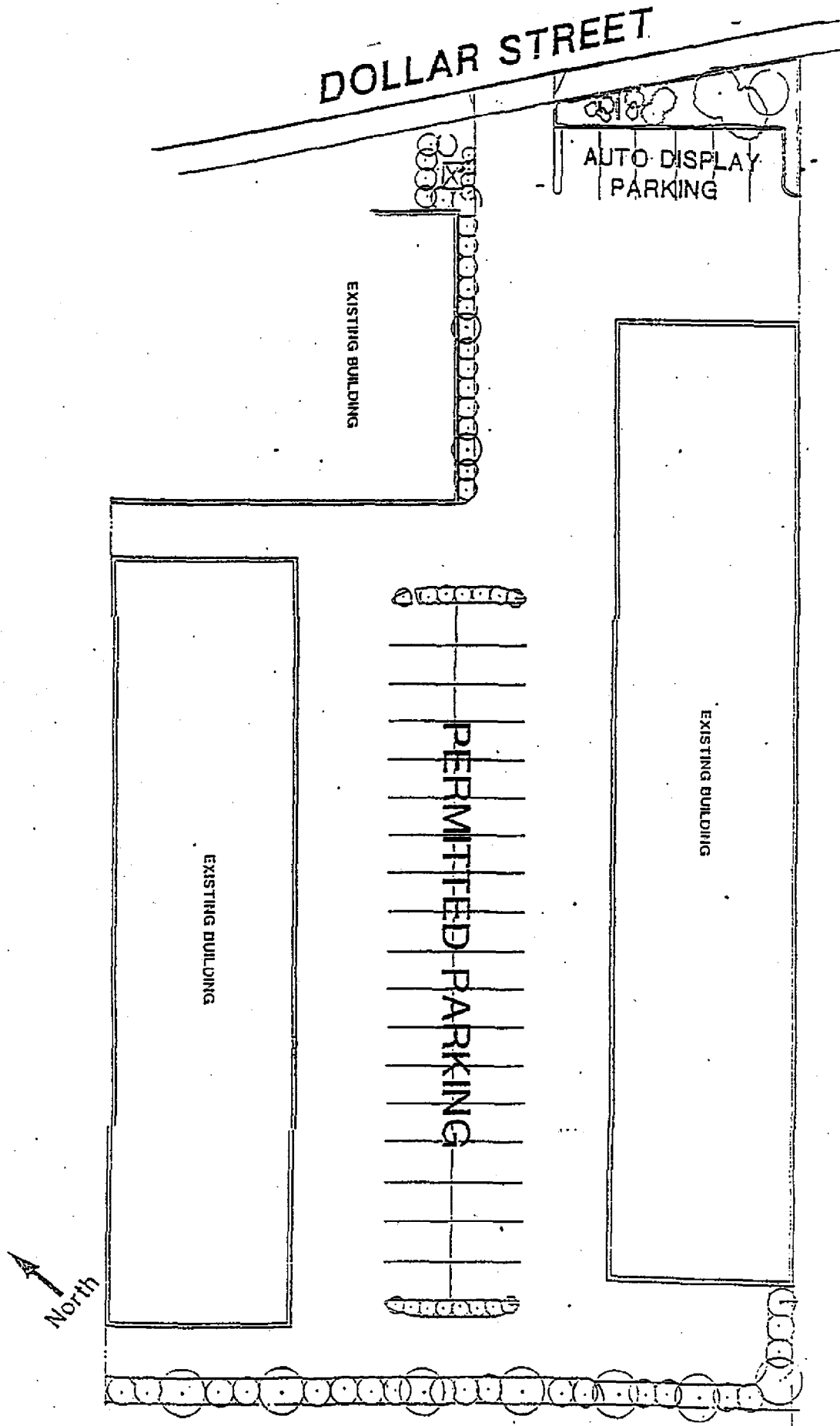


ZONING/AREA MAP ■ UP 99-160-01

Planning Director (Appl.)

Arthur D. Bridges Trust (Owner)

25789 Dollar Street





# CITY OF HAYWARD

## AGENDA REPORT

AGENDA DATE 7/27/99AGENDA ITEM 11WORK SESSION ITEM       

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Appeal of Revocation of Use Permit No. 78-83 And Use Permit No. 91-75, Arthur D. & Beverly Bridges Trust and Vargas Enterprises, Inc. (Owners): Request of the City Council to consider reversal of a revocation of use permits for noncompliance to the conditions of approval.

The site is located at 25751-25789 Dollar Street approximately 550 feet north of Harder Road, in a General Commercial (CG) Mission Corridor Special Design Overlay District (SD-2).

### RECOMMENDATION:

It is recommended that the City Council uphold the Planing Commission's decision to revoke the use permits and direct staff to prepare the appropriate findings and return to Council.

### BACKGROUND:

At its July 20 public hearing, Council Member Jimenez exercised his Council prerogative to continue consideration of this appeal to July 27, 1999.


In the intervening week staff has consulted with the Police and Fire Departments regarding the issues addressed by Mr. Garrison, trustee for the owner of the property, regarding his ability to tow vehicles that do not comply with conditions of the use permit. The Fire Chief indicates that, in addition to signs painted on the fire lane itself, the owner must install vertical signs indicating the need to keep the fire lane open. The Police Department has indicated that the only requirement for the owner to be able to have other cars on the property towed is to sign the property for towing. There is no necessity to call an officer to cite vehicles as the owner may have them towed at his own discretion once the property is signed.

Exhibit A depicts the areas of the property where vehicles belonging to customers and employees and vehicles awaiting repair may be parked. Also shown is the area where six vehicles for sale by Trust Auto may be displayed. No other portion of the property may be used for parking or storage of vehicles.


Much of the discussion at the July 20 hearing centered around the numerous vehicles identified as non-operable or having expired registrations. However, in staff's opinion this should not be a determining factor in the appeal hearing given the lengthy history of violations and the pattern of achieving compliance, only to have violations reoccur within a relatively short period. Although a condition of the use permit states, "Open storage is prohibited in paved parking areas which includes inoperative, dismantled vehicles," violation of this condition alone is not the primary reason staff is recommending upholding the Planning Commission's action. Rather, the failure of the owner to insure that the property is maintained in a safe and attractive manner is key. Selection of the tenants who occupy the site, monitoring of their impacts on the operation of the site, and the overall management of the property in a proactive manner is ultimately the responsibility of the owner, which to date has not been carried out effectively.

The conditions of approval and the manner in which they may be achieved are clear. It remains for the appellant to demonstrate that they are willing and capable of achieving compliance.


Prepared by:

  
Dyana Anderly, AICP  
Planning Manager

Recommended by:

  
Sylvia Ehrenthal, Director of Community  
and Economic Development

Approved by:

  
Jesus Armas, City Manager

Attachments:

Exhibit A - Site Plan

Exhibit B - City Council Report of July 20, 1999



# CITY OF HAYWARD

## AGENDA REPORT

AGENDA DATE 07/20/99AGENDA ITEM 7WORK SESSION ITEM       

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Appeal of Revocation of Use Permit No. 78-83 and Use Permit No. 91-75, Arthur D. & Beverly Bridges Trust and Vargas Enterprises, Inc. (Appellants/Owners) - Request of the City Council to Consider Reversal of a Revocation of Use Permits for Noncompliance to the Conditions of Approval

The Site is Located at 25751-25789 Dollar Street Approximately 550 Feet North of Harder Road, in a General Commercial (CG) Mission Corridor Special Design Overlay District (SD-2)

### RECOMMENDATION:

It is recommended that the City Council uphold the Planning Commission's decision to revoke the use permits and direct staff to prepare the appropriate findings and return to Council.

### BACKGROUND:

On March 25, 1999, the Planning Commission considered the revocation of two use permits regulating the use of the property. Use Permit No. 78-83 allowed the construction of two metal buildings to be used for auto parts and light indoor auto storage and repair. Use Permit No. 91-75 provided for limited auto sales (Attachment C.)

Over a period of several years, the property owner's property manager had been requested by Planning staff to bring the property into compliance with conditions of approval. During this period, most of the violations would be cleared but they would reoccur after only a few weeks or months. Subsequently, as part of a City Community Preservation investigation, the property owner, Arthur D. Bridges Family Trust, received several verbal and written notices over a nine-month period, but did not comply with the conditions of approval of the use permits. Therefore, Planning Director referred the use permits for revocation to the Planning Commission because of noncompliance with the conditions of approval. Specific violations, as outlined below, continued to be problematic:

- Landscaping and irrigation had not been installed in all required planting areas
- Landscaping and automatic irrigation suffered from lack of maintenance
- Graffiti continued to be problematic
- Inoperable vehicles were stored in parking spaces

- Trash enclosures had not been screened
- Parking spaces were not labeled with tenant names as required
- Lack of adequate customer and employee parking
- Inadequate emergency vehicle access due to over-flow parking in the travel aisles
- Buildings needed painting and maintenance
- Overall property maintenance was inadequate

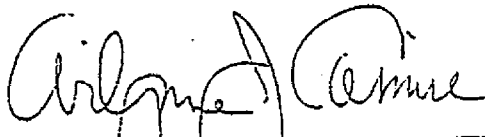
The Planning Commission gave the appellant until June 10, 1999, to meet all conditions of approval and to correct general maintenance violations. By June 10, all conditions of approval were met except the requirement for an automatic irrigation system. Therefore, in accordance with the action of the Planning Commission, the use permits were automatically revoked because not all conditions had been met.

On June 18, 1999, the property owner appealed the revocation (Attachment B). Since receipt of the appeal, staff noted that, although the automatic irrigation system was installed and is operable, other conditions that had been met during the Planning Commission hearing were again out of compliance. This situation appears to be a perpetuation of the past practice where efforts were made to achieve compliance only to have the same disorderly operations arise shortly thereafter. Specifically, it appears that non-operable vehicles that lack current registrations are being stored on the property whereas the use permit does not allow outdoor storage of vehicles other than for employees or short-term customer parking. In addition, vehicles are parked in the travel lanes making it impossible for vehicles to adequately maneuver on the site and impossible for emergency vehicles to access the site. This practice appears to be associated with several of the individual operators within the development. In staff's opinion, the lack of an on-site manager contributes to the situation. The property owner's representative has been advised of the conditions relating to vehicle parking and storage on numerous occasions, including subsequent to the Planning Commission revocation hearing.

#### CONCLUSION:

Because the property continues to be operated in a manner that conflicts with conditions of approval, and because past efforts to remedy the situation have not been successful, staff believes that denial of the appeal is appropriate.

Prepared by:

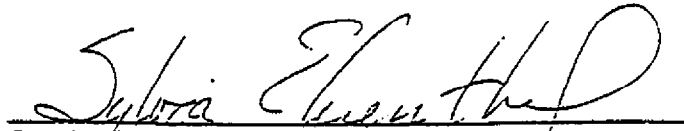



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Arlynn J. Camire, AICP  
Associate Planner



Recommended by:



Sylvia Ehrenthal  
Director of Community and Economic Development

Approved by:



Jesús Armas, City Manager

Attachments:

- A Area Map
- B Letter Requesting an Appeal of the Planning Commission Decision dated June 18, 1999
- C Planning Commission Minutes and Staff Report dated March 25, 1999  
Draft Resolution

7.14.99